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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,999	11/04/2003	Catherine G. Quick	CGQ-1	6648
40023	7590	01/30/2006	EXAMINER	
DAVID M. CARTER CARTER SCHNEDLER & MONTEITH, P.A. 56 CENTRAL AVENUE, SUITE 101 P.O. BOX 2985 ASHVILLE, NC 28802			AMERSON, LORI BAKER	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/701,999	Applicant(s) QUICK, CATHERINE G.	
	Examiner L. Amerson	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments, filed 11/14/05, with respect to the rejection(s) of claim(s) 26-28 under 35 U.S.C. 103 to Abiliations Catalog in view of Fennell have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lillibridge, Schmitt and Han.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

a. Claims 26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Lillibridge. Lillibridge, as broadly claimed, discloses the steps of placing a cushion (10; col. 3, lines 29-30) on a substantially flat surface [col. 2, line 57; via the frame being on the surface, since applicant has not recited that the cushion is directly contacting the flat surface]; placing the front midsection of an infant on a curved outer surface of the cushion (col. 3, lines 32-22); permitting the infant hands to contact the surface (col. 2, lines 59-60 and fig. 1); and permitting the infant to roll the cushion (col., 3, lines 34-36; via rollers 340).

b. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Matthews discloses in Figure 4A the steps of placing a cushion (10) having a substantially rigid core element 30 or 40 (col. 5, lines 23-25 and 43-46) on a

substantially flat surface [fig. 4A); "permitting" the infant hands to contact the surface and "permitting" the infant to roll the cushion (col. 5, line 50-56) .

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt and Han in view of Linge. Schmitt discloses exercising utilizing an elongated cushion (16) which has the shape of a cylinder, having first and second ends (fig. 1), having an outer cushion (12) and fabric covering (16), where the bolster is place on the flat surface and rolled upon by a user on a midsection of the body of the user. Schmitt discloses placing the back torso on the device, but the as the user rolls on the device, the front torso is indirectly affected in the exercise (page 1). Schmitt discloses all of the limitations of the claimed invention except for the steps on exercising an infant and a hollow cavity. In an analogous art, Han teaches a device for the back torso section of an adult user or child user. Furthermore, Linge teaches a hollow cavity 46. It would have been obvious to one having ordinary skill in the art at the time the invention was made modify Schmitt in view of the teaching of Han such that a cylindrical device is capable of being used by adult users as well as children. Additionally, it would have been obvious to one having ordinary skill in the art to

include a hollow cavity within a device for the purpose of storing products for future use.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 9-6 p.m. Interviews Tue. and Thur..

Note the similar devices on Form 892. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lori Amerson